

EXHIBIT B

VAGINAL MESH HEARINGS

SHANIN SPECTER, TOM KLINE AND LEE BALEFSKI STATEMENT

06/12/2018

VAGINAL MESH HEARINGS

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06/12/2018

<p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA 3 CHARLESTON DIVISION 4 5 IN RE: C.R. BARD, INC. PELVIC REPAIR 6 SYSTEM MDL NO. 2187 7 PRODUCTS LIABILITY LITIGATION</p> <hr/> <p>8 IN THE UNITED STATES DISTRICT COURT 9 FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA 10 CHARLESTON DIVISION 11 12 IN RE: AMERICAN MEDICAL SYSTEMS, INC. 13 PELVIC REPAIR SYSTEM MDL No. 2325 14 PRODUCTS LIABILITY LITIGATION 15 16 IN THE UNITED STATES DISTRICT COURT 17 FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA 18 CHARLESTON DIVISION 19 20 IN RE: BOSTON SCIENTIFIC CORP. PELVIC REPAIR 21 SYSTEM PRODUCTS MDL No. 2326 22 LIABILITY LITIGATION 23 24</p> <hr/> <p>25 IN THE UNITED STATES DISTRICT COURT 26 FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA 27 CHARLESTON DIVISION 28 29 IN RE: ETHICON, INC. PELVIC REPAIR SYSTEM MDL NO. 2327 30 PRODUCTS LIABILITY LITIGATION 31 32 33 34</p>	<p style="text-align: right;">Page 3</p> <p>1 APPEARANCES: 2 COMMITTEE MEMBERS: 3 4 Clayton Clark, Clark, Love & Hutson 5 Joe Rice, Motley, Rice, LLC 6 Riley Burnett, Burnett Law Firm 7 Tom Cartmell, Wagstaff & Cartmell, LLP 8 Renee Baggett, Aylstock, Witkin, Kreis & Overholtz 9 Henry Garrard, Blasingame, Burch, Garrard & Ashley 10 Daniel Stack, Court-Appointed Special Advisor to FCC 11 Carl N. Frankovitch, Frankovitch & Anetakis 12 William H. McKee, Jr., WHM Resources, LLC 13 Yvonne M. Flaherty, Lockridge, Grindal, Nauen, PLLP 14 15 16 17 18 19 20 21 22 23 24</p>
<p style="text-align: right;">Page 2</p> <p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA 3 CHARLESTON DIVISION 4 IN RE: COLOPLAST CORP. PELVIC SUPPORT SYSTEMS MDL No. 2387 5 PRODUCTS LIABILITY LITIGATION 6 7 IN THE UNITED STATES DISTRICT COURT 8 FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA 9 CHARLESTON DIVISION 10 11 IN RE: COOK MEDICAL, INC., PELVIC REPAIR SYSTEM MDL No. 2440 12 PRODUCTS LIABILITY LITIGATION 13 14 IN THE UNITED STATES DISTRICT COURT 15 FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA 16 CHARLESTON DIVISION 17 18 IN RE: NEOMEDIC PELVIC REPAIR SYSTEM PRODUCTS MDL No. 2511 19 LIABILITY LITIGATION 20 21 22 23 24</p> <p>Statement before the Finance Committee by Shanin Specter, Tom Kline and Lee Balefski with Specter & Kline before Teresa Reedy, a Registered Professional Reporter, at West Virginia Federal Courthouse, Charleston, West Virginia, on the 12th day of June, 2018.</p> <p>REALTIME REPORTERS, LLC 713 Lee Street Charleston, WV 25301 (304) 344-8463 realtimereporters.net</p>	<p style="text-align: right;">Page 4</p> <p>1 MR. GARRARD: For the court reporter, please 2 give your names and your current -- 3 MR. SPECTER: Good afternoon. Shanin Specter, 4 S-H-A-N-I-N, Specter, S-P-E-C-T-E-R from Kline & Specter in 5 Philadelphia. To my right is Tom Kline, and to my left is Lee 6 Balefski, B-A-L-E-F-S-K-I. 7 MR. GARRARD: Thank you. We appreciate you 8 being here, and hope that you give us information that we 9 should consider that would help us as we deal with evaluating 10 time, expenses and contributions on this litigation. So we 11 would open the floor to you. 12 MR. SPECTER: Good afternoon. We're here to 13 reiterate our firm's significant contributions for the Common 14 Benefit of the transvaginal mesh litigation. We're also here 15 to express our concerns about the process, the disallowance by 16 the FCC of 70 percent of our time, the lack of transparency, 17 and answer any questions the FCC may have about our firm's 18 contribution. 19 Please note that we object to our counsel, 20 Bowles Rice, not being allowed at this meeting. 21 MR. GARRARD: Say that again. 22 MR. SPECTER: I said please note that we 23 object to our counsel, Bowles Rice, not being allowed at this 24 meeting.</p>

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<p style="text-align: right;">Page 5</p> <p>1 MR. GARRARD: Not to get into a dispute 2 with you, but nobody here said they couldn't be here. 3 MR. SPECTER: Okay. Well, we have 4 written information from you-all that indicated that to 5 us. 6 MR. GARRARD: That was not the intent 7 of any written information to you. 8 MR. SPECTER: In the course of Kline & 9 Specter's six-year involvement in this litigation, our 10 firm has, number one, done everything we've been asked 11 to do by leadership. Number two, always volunteered 12 and offered to help with any project. Number three, we 13 have never been questioned about our work product, work 14 ethic or the propriety of hours we have submitted for 15 any of the 37 reporting periods. And, number four, we 16 have received numerous accolades for the work we did. 17 Since the establishment of the pelvic 18 mesh MDLs, lawyers and paralegals employed by Kline & 19 Specter have taken innumerable actions that have 20 provided common benefits and materially advanced the 21 interests of every plaintiff and claimant in the pelvic 22 mesh MDLs. 23 Kline & Specter has tried six pelvic 24 mesh cases to jury verdicts. In five of those cases,</p>	<p style="text-align: right;">Page 7</p> <p>1 Kline & Specter to challenge the reduction of hours 2 made by the FCC to explain why these hours should be 3 considered for common benefit. However, the FCC has 4 made that task overly burdensome, impractical, and 5 frankly impossible. The FCC has provided blanket, 6 non-specific disallowances of this firm's time, making 7 a specific response to each fee entry a futile guessing 8 game. This is fundamentally unfair. It is a basic 9 tenet of justice that a party receive notice of the 10 nature of a claim or defense. The lack of specificity 11 of the reason for the proposed disallowance prevents us 12 from meaningfully responding. 13 Kline & Specter has submitted discovery 14 requests -- requests which we reassert at this time and 15 requests which are fundamental to this process. We, 16 again, request that the FCC produce the specific reason 17 for each of the proposed disallowed entries so that 18 Kline & Specter can respond in an informed, appropriate 19 and meaningful manner. 20 We further request first production of 21 each fee and expense request of each firm and the FCC's 22 response to each request. Second, disclosure of the 23 amount of money received pursuant to the five-percent 24 assessment, along with a per-firm itemization of these</p>
<p style="text-align: right;">Page 6</p> <p>1 the plaintiffs prevailed. Collectively, juries have 2 awarded Kline & Specter's clients \$110 million in 3 damages. 4 Kline & Specter submitted 32,270.19 5 hours of time for consideration of common benefit. 6 After the first review, the FCC approved only 5,202.95 7 of Kline & Specter's hours as for the common benefit of 8 all plaintiffs. Following the submission of our 9 affidavit on February 9, 2018, requesting 10 reconsideration of our submitted time, the FCC approved 11 an additional 4,199.24 hours. At this time, the fee 12 committee had identified a total of 9,42.19 of Kline & 13 Specter's hours for consideration as common benefit 14 time. That means that there is a total of 22,868 hours 15 that the FCC proposes to disallow from our submission. 16 Over 70 percent of Kline & Specter's submitted hours. 17 Furthermore, initial exclusion of the 18 additionally allowed 4,199.24 hours was not merited as 19 evidenced by its later inclusion. While we appreciated 20 having more hours included, we note that the doubling 21 of the hours that had been accepted demonstrates the 22 underlying flaws in the process. 23 Throughout the process of assessing 24 common benefit time, the FCC allowed firms such as</p>	<p style="text-align: right;">Page 8</p> <p>1 payments. Third, all documents and emails relating to 2 any fee-sharing agreements between or among the members 3 of the FCC. Fourth, all communications among FCC 4 members and all documents relating to FCC consideration 5 of the fee and expense reports. 6 This information is necessary to ensure 7 that the FCC functions in accordance with the most 8 basic judicial standards of transparency and fairness 9 and is crucial to ensure that fee allocations are 10 appropriate. 11 Kline & Specter also proposes making 12 the information sought available to every firm that has 13 submitted fee applications. Making this information 14 available to every plaintiff's lawyer involved in this 15 process is in everyone's best interest, every attorney 16 and every client. Fee disputes and other litigation 17 with millions of dollars at stake ought to be litigated 18 openly and transparently. Attorneys are inclined to 19 argue over these generous fee awards and should be well 20 positioned to comment publicly and openly on each 21 other's relative contribution to the litigation. 22 We currently have a second set of 23 discovery requests pending that have not been answered 24 or objected to. The continued lack of receipt of this</p>

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<p style="text-align: right;">Page 9</p> <p>1 information hampers our ability to meaningfully 2 participate in this proceeding. Let me turn now to the 3 work performed. 4 Our affidavit speaks for itself as to 5 the important work Kline & Specter has done for the 6 Common Benefit. We wish to highlight a few items. 7 First, as a firm, we've made huge commitment to this 8 litigation. 9 Second, Kline & Specter had 24 10 attorneys taking part in this litigation for which we 11 sought common benefit fees, including four of our 12 doctor-lawyers. As we are here today, at this very 13 moment, we have 55 lawyers in our firm working in this 14 litigation including four in Suffolk, Massachusetts, 15 completing a trial against Boston Scientific. 16 Third, Kline & Specter Partner, Lee 17 Balefski, has served as a member of the MDL Plaintiff 18 Steering Committee, New Jersey Discovery Committee, and 19 as the liaison counsel in the Philadelphia Court of 20 Common Pleas Pelvic Mesh Litigation. 21 Fourth, Kline & Specter has performed a 22 total of over 32,000 hours of common benefit time. 23 Fifth, we've advanced millions of 24 dollars for both the common benefit and their</p>	<p style="text-align: right;">Page 11</p> <p>1 Lewis versus Ethicon. 2 Ninth, our battle to successfully 3 maintain jurisdiction over Ethicon in Pennsylvania was 4 critical to the common benefit by opening up a new 5 venue, forcing Ethicon to divert resources from other 6 venues and was likely critical in the settlement of 7 thousands of cases. 8 Tenth, despite these contributions, 9 over 70 percent of our hours have been disallowed by 10 the FCC. It is difficult for us to determine why many 11 of these hours have been excluded. We can only 12 conclude that many disallowances appear arbitrary. 13 There are times when certain work is approved for 14 common benefit and then we find an entry where similar 15 work is disallowed. For example, a June 12, 2014 entry 16 for work performed by Attorney Catherine Foley was 17 described as, quote, review of Ethicon slash Secant 18 documents for West/Nadaeu, N-A-D-E-A-U, depositions, 19 unquote. This entry was allowed. A June 13, 2014 20 entry, the very next day for the continuation of the 21 same work, was then disallowed. 22 Similarly, an October 24, 2012 entry by 23 Attorney Roger Cameron for work spent preparing for 24 Ethicon corporate employee Axel Arnaud's deposition was</p>
<p style="text-align: right;">Page 10</p> <p>1 individual clients. 2 Sixth, most importantly, our work has 3 resulted in phenomenal success. We obtained five jury 4 verdicts against Ethicon totaling over \$110 million 5 including punitive damages. In the course of these 6 trials, we obtained many significant rulings and 7 provided substantial contribution to the improvement of 8 the Ethicon trial package including, but not limited 9 to, providing new and updated depositions, deposition 10 cuts, pleadings, motions, and expert reports. 11 Seventh, our discovery team uncovered 12 critical documents and helped significantly in 13 depositions of the Ethicon corporate witnesses -- 14 particularly at the onset of this litigation. 15 Attorneys at Kline & Specter were crucial in the 16 preparing and taking of almost all of these key 17 depositions that were used in trials across the 18 country. Rightly so, hundreds of these hours have been 19 approved by the FCC as work being for the common 20 benefit and our effort and work in this regard was 21 lauded by other attorneys in this litigation. 22 Eighth, our work contributed to the 23 success and development of the trial package in the 24 earliest trials, including Gross versus Ethicon and</p>	<p style="text-align: right;">Page 12</p> <p>1 allowed, and an October 25, 2012 entry by Mr. Cameron, 2 for additional work regarding his deposition the very 3 next day, was disallowed. 4 You've left it up to us and other firms 5 involved in this litigation to speculate. We are left 6 scratching our collective heads, looking at the 7 thousands of disallowed entries, trying to fill in the 8 blank. Obviously, the FCC made a determination at some 9 point in time. There does exist a reason. Why the 10 reasons are being withheld from the firms is 11 bewildering at this juncture. We reiterate our request 12 for discovery and transparency in this process. 13 Let me turn, if I may, to a couple of 14 the cases. Hammons versus Ethicon. In reviewing the 15 disallowance of the entries, we have ascertained that 16 over 4,000 of Kline & Specter's hours submitted for the 17 Hammons versus Ethicon case, tried in the Philadelphia 18 court of common pleas, were disallowed. We disagree 19 with this determination and assert that our work in the 20 Hammons case benefited all plaintiffs in this 21 litigation. 22 Hammons was in December 2015, before 23 Ethicon settled the majority of cases. While the 24 Hammons case was the second trial involving the</p>

<p style="text-align: right;">Page 13</p> <p>1 Prolift, it was the first and only case where the jury 2 found for the plaintiff on a defective design claim. 3 The Gross verdicts -- Gross being the first Prolift 4 case to be tried -- was successful on the 5 failure-to-warn claim only. 6 The design defect claim is at the heart 7 of these cases. While the failure-to-warn claim is 8 case specific, it depends on the testimony of the 9 implanting doctor, who is the learned intermediary, 10 that the defect claim concerns the product itself and 11 is at issue in every case. The bottom line is that the 12 verdict in Hammons was at least as, if not more, 13 significant for the common benefit as was the Gross 14 verdict and served to put Ethicon on notice that it 15 would probably be wise to seriously consider 16 settlement. 17 In addition to the significance of 18 findings on design defect, the plaintiff was awarded 19 \$5.5 million in compensatory and \$7 million in punitive 20 damages. This was the largest Ethicon jury verdict to 21 date and the third largest verdict against any 22 defendant in the entire pelvic mesh litigation. 23 The significance of the Hammons verdict 24 was not just the verdict. The trial package Kline &</p>	<p style="text-align: right;">Page 15</p> <p>1 involving Ethicon's TVT retropubic device and the first 2 verdict in favor of the plaintiff. It was also Kline & 3 Specter's second pelvic mesh trial in the Philadelphia 4 Court of Common Pleas and, ultimately, our second 5 landmark verdict. The jury awarded Mrs. Carlino 3.25 6 million in compensatory damages, \$250,000 for 7 Mr. Carlino for loss of consortium and \$10 million in 8 punitive damages. Kline & Specter's work in Carlino 9 benefited all plaintiffs in this litigation and our 10 work in Hammons has proven to be equally as beneficial. 11 Let me comment briefly on three other 12 cases that we've tried. Beltz, Engleman, and Ebaugh. 13 In addition to Hammons, work on three of our other 14 important trial verdicts -- Beltz, Engleman and Ebaugh, 15 was also disallowed. While these trials occurred in 16 2017, after the stated cut-off date of January 1, 2017, 17 much of the work did not occur after that date. It 18 occurred prior to this date. 19 We have been unable to determine if our 20 work on this case was disallowed because the trials and 21 verdicts occurred after the January 1, 2017 date or 22 because it was not considered common benefit work or 23 both or something else. If it was because of the 24 timing of the verdicts, that causes us to wonder, will</p>
<p style="text-align: right;">Page 14</p> <p>1 Specter developed was requested and used by attorneys 2 around the country for their Ethicon MDL wave cases. 3 For example, on March 28, 2016, Kline & Specter 4 partner, Kila Baldwin, sent her deposition of 5 Ms. Hammons' treating physician, Dr. Julie Drolet, to 6 multiple attorneys with cases pending in the Ethicon 7 MDL. She also sent the outline to Attorney Daniel 8 Thornburgh, who had requested it, writing, quote, 9 Thanks, Kila. If you have your outline that you used 10 for this deposition, I think it would help others who 11 are preparing for Urogyn depositions in the Ethicon 12 Wave 1 expert depo phase we are in right now in the 13 MDL, unquote. 14 Additionally, the deposition cuts from 15 the de bene esse depositions of expert witnesses, such 16 as Dr. Daniel Elliot and Professor Uwe Klinge, which 17 were created by the Hammons trial team and played 18 during the Hammons trial were deemed admissible to be 19 used in Prolift Wave cases by magistrate Judge Cheryl 20 A. Eifert of the United States District Court for the 21 Southern District of West Virginia. 22 Let me speak now briefly about Carlino 23 versus Ethicon. In contrast, the FCC approved our work 24 in Carlino versus Ethicon. This was the second trial</p>	<p style="text-align: right;">Page 16</p> <p>1 these hours be considered at a later time and, if so, 2 when. If these cases have been permanently excluded 3 because the work was not considered common benefit, we 4 would like to know why. 5 At the end of 2016, there were a 6 significant number of active Ethicon cases, many of 7 which were being worked up for trial in the MDL Wave 8 process. These three significant verdicts surely had 9 an impact in Ethicon's increased interest in settling 10 cases through 2017. This work should be recognized. 11 It is important to note that it's not 12 just a single verdict that drives settlement. It's 13 multiple verdicts that take their toll on defendants 14 and their resources. To say that no verdicts after a 15 product's first verdict against it should be considered 16 for the common benefit is arbitrary and without basis. 17 Let me comment, if I may briefly, on 18 Ethicon's existence as the defendant in the 19 Philadelphia Court of Common Pleas. Kline & Specter's 20 success in Philadelphia Court of Common Pleas has been 21 instrumental in helping drive Ethicon to settle cases, 22 bolstering trial packages, bringing about key rulings 23 and simply weakening Ethicon's ability to fight the 24 cases across the country.</p>

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<p style="text-align: right;">Page 17</p> <p>1 Let me focus on Remands for a moment. 2 From the beginning, Ethicon vigorously fought the 3 establishment of a pelvic mesh mass tort program in 4 Philadelphia. At the outset of filing our cases in the 5 PCCP, Ethicon removed the cases to federal court, 6 claiming fraudulent joinder regarding the naming of 7 Secant as a defendant. Kline & Specter filed extensive 8 briefing defeating Ethicon's fraudulent joinder 9 argument and was able to effectively remand these cases 10 back to the Philadelphia Court of Common Pleas. 11 Hundreds of hours regarding these removals and remands 12 have been arbitrarily disallowed by the FCC, despite 13 the FCC correctly recognizing other work regarding 14 Secant and the establishment of the PCCP that did 15 benefit all litigants. Again, we do not know why these 16 hours were disallowed. The reasons were not provided. 17 Let me now focus for a moment on 18 jurisdiction. Similarly after the fraudulent joinder 19 argument failed, Ethicon fought us on personal 20 jurisdiction multiple times, any and every way that 21 they could, and it appears that these hours have also 22 been disallowed. We disagree with that determination. 23 Kline & Specter conducted hundreds of hours of 24 substantial legal work in order to establish that</p>	<p style="text-align: right;">Page 19</p> <p>1 cannot determine if any other firms were approved for 2 work in the Coloplast litigation, but we certainly were 3 not. It seems fundamentally unfair that our work in 4 Coloplast, including the Jones case, was determined to 5 be global enough to assess our settlement by five 6 percent, but not global enough to be considered for the 7 common benefit of all plaintiffs in the litigation. Of 8 course, we fought that five percent assessment, finding 9 it itself to be unfair. At the very least, our work 10 provided a significant financial contribution to these 11 funds. 12 In conclusion, Kline & Specter is proud 13 of the work we have done and the success that we have 14 achieved. Work and success that has benefited 15 thousands of injured women across the country. And 16 work that we continue to do. 17 Throughout this process, we have 18 reiterated one request, transparency, and we imagine 19 that everyone involved in this litigation is or should 20 be on board with that. At the April 2016 meeting with 21 the FCC held here in Charleston, West Virginia, it was 22 clearly stated that transparency will be the goal. 23 Each firm will be given an opportunity to comment on 24 other's submissions. We now ask that this promise be</p>
<p style="text-align: right;">Page 18</p> <p>1 Secant's manufacturers of the mesh in Pennsylvania 2 created a significant contact between Ethicon and 3 Pennsylvania. Kline & Specter successfully managed to 4 keep 118 cases in the Philadelphia Court of Common 5 Pleas, maintaining another avenue for litigating these 6 cases against Ethicon and establishing further pressure 7 on this defendant to the benefit of all pelvic mesh 8 litigants. 9 Again, while some work regarding that 10 has been allowed, hundreds of hours have been left on 11 the table and disallowed; and given the information 12 provided by the FCC, we cannot determine why. 13 Let me turn, if I may, to discuss the 14 Coloplast litigation. Kline & Specter has been the 15 only firm to have performed significant work in the 16 Coloplast litigation, including the review of tens of 17 thousands of pages of documents. More importantly, we 18 spent hundreds of hours working up the case of Jones 19 versus Coloplast, which was litigated in Philadelphia 20 County, and we received an eight-figure settlement in 21 that case, five percent of which went into the common 22 benefit assessment pool. 23 None of the hours submitted by Kline & 24 Specter were allowed by the FCC. Kline & Specter</p>	<p style="text-align: right;">Page 20</p> <p>1 upheld. We ask for fairness in the process, for 2 transparency, and to be recognized for the time and 3 effort Kline & Specter has put forth for the benefit of 4 all plaintiffs in this litigation. We would be pleased 5 to respond to any comment or questions. 6 MR. RICE: I got a curiosity question. 7 I just don't know. What is the status of the five 8 cases, as far as appeals or -- 9 MR. SPECTER: Those cases are all on 10 appeal pending resolution. 11 MR. RICE: On a consolidated basis or 12 separate -- 13 MR. SPECTER: They're all separate 14 appeals. 15 MR. RICE: Are they in the same 16 appellant court? 17 MR. SPECTER: Yes. 18 MR. GARRARD: I have a question. In 19 the history of the transvaginal mesh and the MDL, what 20 assistance did your firm receive from members of the 21 MDL, from the PSC in terms of helping you prepare, for 22 example, for Ethicon trials and helping you prepare for 23 Boston Scientific trials? 24 MR. SPECTER: It's varied. The Ethicon</p>

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<p style="text-align: right;">Page 21</p> <p>1 work, a lot of it was very good.</p> <p>2 MR. GARRARD: When you say good, you're</p> <p>3 referring to the work that was shared with you?</p> <p>4 MR. SPECTER: Yes. There were fact</p> <p>5 witness testimony taken on videotape from Ethicon</p> <p>6 employees, some of which we used, although we recut</p> <p>7 them. There were expert reports which formed the basis</p> <p>8 for experts that we decided to call. Some of that was</p> <p>9 reworked by us. There was document review that was</p> <p>10 done, and we used some of those documents at trial.</p> <p>11 Some of those documents were developed by work that we</p> <p>12 did. So it came through the MDL process in part</p> <p>13 through our work.</p> <p>14 But I would say that the work done with</p> <p>15 respect to the Prolift was very good. The work on the</p> <p>16 TVT was good. Not as extensive, but good, as far as it</p> <p>17 went. On Boston Scientific, it was not as well</p> <p>18 developed and we had to develop a lot of that.</p> <p>19 MR. GARRARD: Enlighten just a little</p> <p>20 bit, when you say you had to develop Boston Scientific,</p> <p>21 give us some specifics, if you don't mind, as to what</p> <p>22 your firm did in developing that.</p> <p>23 MR. SPECTER: I think for that, Henry,</p> <p>24 I'd like to respond to you in writing if I could. I'd</p>	<p style="text-align: right;">Page 23</p> <p>1 because I thought at least some of that work had been</p> <p>2 recognized and I could be in error but --</p> <p>3 MR. CLARK: Was that the TVTS case,</p> <p>4 where both Mr. Cartmell's firm and my firm worked with</p> <p>5 you on that?</p> <p>6 MR. BALEFSKI: That was the TVT case.</p> <p>7 That we -- no, that was --</p> <p>8 MR. CLARK: -- do you recall?</p> <p>9 MR. BALEFSKI: It was the TVT.</p> <p>10 MR. GARRARD: What was the TVTS case?</p> <p>11 MR. BALEFSKI: The TVTS case that Ben</p> <p>12 Anderson tried.</p> <p>13 MR. SPECTER: With us.</p> <p>14 MR. CLARK: But the workup prior to</p> <p>15 that is what I'm asking you about, prior to the cut-off</p> <p>16 time. Because you didn't do all the workup just before</p> <p>17 you tried the case. I think some of the work was done</p> <p>18 before and I'm just curious if you recognized whether</p> <p>19 or not that work was, in fact, recognized as common</p> <p>20 benefit.</p> <p>21 MR. BALEFSKI: I don't believe it was.</p> <p>22 I will defer to --</p> <p>23 MR. GARRARD: I will be sure that we</p> <p>24 check on that.</p>
<p style="text-align: right;">Page 22</p> <p>1 like to consult with Kila Baldwin in our firm to give</p> <p>2 you a thorough answer to that. She has been primarily</p> <p>3 responsible for that work, along with Chris Gomez. I'd</p> <p>4 like to give you a more complete response. I can</p> <p>5 comment with greater specificity, as can Mr. Kline on</p> <p>6 Ethicon because we've tried those cases ourselves.</p> <p>7 MR. GARRARD: I was specifically</p> <p>8 interested in Boston, but if you want to give me</p> <p>9 something, that's fine. I will leave --</p> <p>10 MR. SPECTER: Good. Thank you.</p> <p>11 MR. GARRARD: It is my belief that the</p> <p>12 FCC recognized work your firm did in Engleman, Carlino</p> <p>13 and Harris. I may have misunderstood you, but I</p> <p>14 thought, as to one of those cases, you said we did not.</p> <p>15 Did I misunderstand you?</p> <p>16 MR. SPECTER: Yes.</p> <p>17 MR. KLINE: The Engleman case, Henry,</p> <p>18 was tried in 2017. I did not -- in my review of the</p> <p>19 entries, did not see any work recognized for the</p> <p>20 Engleman case.</p> <p>21 MR. GARRARD: For the trial in 2017 or</p> <p>22 the work up to?</p> <p>23 MR. KLINE: For either.</p> <p>24 MR. GARRARD: I want to check on that</p>	<p style="text-align: right;">Page 24</p> <p>1 MR. SPECTER: On Engleman, the bulk of</p> <p>2 our work was done late in the process, to answer your</p> <p>3 question, Clayton.</p> <p>4 MR. CLARK: I believe that it was late</p> <p>5 2015 that you began working on the case, as far as we</p> <p>6 do, and we started getting requests for information and</p> <p>7 Will Longquist from our office also worked on that case</p> <p>8 as well, with delivering work we had done on it --</p> <p>9 MS. BAGGETT: And us.</p> <p>10 MR. CLARK: -- correct case. But I</p> <p>11 believe that was a secure case; is that right?</p> <p>12 MS. BAGGETT: Yeah.</p> <p>13 MR. GARRARD: Lee, or any of you, in</p> <p>14 the course of the work you did, did you provide expert</p> <p>15 reports that were new experts, new generated experts to</p> <p>16 any of the firms involved in the MDL for uralitization?</p> <p>17 MR. KLINE: We did provide a new expert</p> <p>18 report from a Dr. Ralph Zipper, which we worked on with</p> <p>19 a couple of the other firms involved. We also worked</p> <p>20 extensively with Drs. Rosenzweig and Margolis to update</p> <p>21 and refine their reports and, more importantly, their</p> <p>22 testimony.</p> <p>23 MR. GARRARD: What I was interested</p> <p>24 in -- no trick question -- is as to whether there were</p>

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<p style="text-align: right;">Page 25</p> <p>1 new experts you developed. I mean, I'm familiar with 2 Zipper. I'm familiar with the others. I probably knew 3 Zipper before any of you guys did and I'm interested in 4 whether you had new experts you developed that got 5 expert reports and shared those with the MDL? 6 MR. SPECTER: I don't believe so beyond 7 what Lee had said to you. We certainly did not do 8 everything that was litigation. 9 MR. GARRARD: I'm not suggesting -- 10 MR. SPECTER: -- and we didn't do most 11 things. Other people did most things but we did 12 largely in this litigation what we were asked to do by 13 leadership, and if we had been asked to develop 14 experts, we would have done that. 15 MR. GARRARD: On Coloplast, tell me a 16 little bit about the extent of the work you did in 17 Coloplast. The Court here basically stayed discovery 18 and I believe there was a request, at some point, for 19 you providing to some of the Coloplast leadership some 20 information you had worked on. Educate us just a 21 little bit about that, if you would please. 22 MR. BALEFSKI: We filed 23 interrogatories and requests for production in 24 Philadelphia County in the Jones case, and were</p>	<p style="text-align: right;">Page 27</p> <p>1 and, eventually, we provided whatever documents were 2 requested to anyone. 3 MR. GARRARD: Do you know what exactly 4 it is of what you provided? Was it the gross documents 5 you received? Was it some segregation of documents? 6 MR. BALEFSKI: We provided a -- what we 7 felt were the key liability documents to whoever in the 8 MDL wanted them. We also provided copies of the 9 deposition transcripts that we took. We also provided 10 summaries, I believe if I'm not wrong, of what we -- of 11 those documents and what we garnered from those 12 documents. I think, subject to the constraints we were 13 under, which we eventually got out from under, we 14 provided everything that we were asked to. I know 15 that. 16 MR. GARRARD: Do you recall which of 17 the leadership you provided that to? 18 MR. BALEFSKI: It would have probably 19 been Skeeter. I'm not sure who else. 20 MR. GARRARD: Anything else you want to 21 tell us? 22 MR. CARTMELL: On Coloplast, real quick, 23 did you get to expert reports in that case, in other 24 words, generate any expert reports?</p>
<p style="text-align: right;">Page 26</p> <p>1 provided with millions of pages of documents for 2 review. We broke those up into different people in the 3 firm, reviewed those documents and pulled the key 4 liability documents for Coloplast. In addition, we 5 took four depositions in Minneapolis of Coloplast 6 corporate employees so those -- and whatever we were 7 asked to provide, I think we did to whoever wanted it. 8 I mean, there was a protective order in place, where 9 there was some issues as to whether we could do it, but 10 to the extent we could do it, we did. So the Coloplast 11 work is now available for anybody who wants it. 12 MR. GARRARD: I recall there being an 13 issue, at some point, Lee, as to whether you could or 14 would provide, for example, documents that you had 15 secured in your case over to the MDL and, if you would, 16 educate us as to the history of that, whether there was 17 resistance to provide, whether you felt you couldn't 18 provide it because of the protective order and what, 19 if, anything ultimately was provided. 20 MR. BALEFSKI: There was -- we had no 21 problem providing anything we could. There were 22 protective orders in place in Philadelphia County that 23 we had to get Coloplast's permission to get around in 24 order to provide the documents. Eventually, we did</p>	<p style="text-align: right;">Page 28</p> <p>1 MR. BALEFSKI We did not -- we 2 generated -- yes, we generated case-specific expert 3 reports. We did not generate a generic expert report. 4 We're actually working on that right now. 5 MR. SPECTER: Yeah, just a couple other 6 problems on Coloplast. One is that it's a matter 7 that's available to you, in terms of the records that 8 you -- that the common benefit fund received a million 9 dollars on the Jones case, which represents five 10 percent of -- 11 MR. GARRARD: I'm aware of that. 12 MR. SPECTER: -- the settlement. So 13 that there has been a benefit to counsel, with regard 14 to our work on that case. That's very significant. 15 MR. GARRARD: I'm aware of the history. 16 MR. SPECTER: The other thing I want to 17 comment on is that that litigation is ongoing. We have 18 quite a few cases against Coloplast currently and we 19 are engaged now in discovery with them and we're 20 prepared to share everything we obtained to the degree 21 we possibly can with anybody else who wants it. 22 MR. GARRARD: Currently, discovery is 23 basically stayed in Coloplast in the MDL, so I'm aware 24 of the factors in relation to the payment of the five</p>

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<p style="text-align: right;">Page 29</p> <p>1 percent and first, I think, you guys said we don't 2 really think we ought to and we said pay it and you 3 paid it. 4 MR. SPECTER: Unless we can hold 5 something additional, which is you said he was going to 6 make a determination at a later point as to whether 7 it's an appropriate allocation to come. 8 MR. GARRARD: I think that's maybe his 9 policy, that if somebody objects, you got to pay it and 10 then if you want to object later, you get to object 11 later. 12 Anything else you guys would like us to 13 know? 14 MR. BALEFSKI: May I ask a question? 15 MR. GARRARD: Yes. 16 MR. SLACK: I just wanted to ask this 17 question because Mr. Specter made a pretty good point, 18 which I think is commonly true, about the fact that the 19 state court trials still put pressure on defendants to 20 settle, but in my experience, I think there are -- all 21 state court trials that are -- that, while they 22 continue to put pressure on the defendant, don't 23 qualify as common benefit. So I was just curious about 24 your perception of that and if you've had other DLs</p>	<p style="text-align: right;">Page 31</p> <p>1 in that litigation. 2 MR. CLARK: I just want to make sure 3 that you received it because it was tried, verdict and 4 appealed; and the appeal was also on the 13th. 5 MR. SPECTER: Yes, I know it was an 6 outstanding recovery. 7 MR. GARRARD: Anything else you'd like 8 to share? 9 MR. RICE: In the submission, you 10 designate partner, you designate associate, and you 11 designate counsel. 12 MR. SPECTER: Right. 13 MR. RICE: What's the difference? I 14 got the partner part. What's the difference between 15 the associate and counsel? 16 MR. BALEFSKI: Associate is somebody 17 who is employed by Kline & Specter. Counsel is someone 18 who is employed by Kline & Specter on a temporary or 19 contract basis. 20 MR. RICE: A lot of times -- and do the 21 counsel -- is that basically document review? Is that 22 generally contract lawyers doing document review? 23 MR. BALEFSKI: Majority, yes. In 24 addition to that, they're involved in legal writing,</p>
<p style="text-align: right;">Page 30</p> <p>1 where you felt that was given common benefit 2 qualification. 3 MR. SPECTER: Well, I would start with 4 the proposition that our understanding was that work 5 that was done on the state court trials would be 6 considered as common benefit in this litigation, so 7 let's just begin with that. 8 With respect to what happens in other 9 places, in other jurisdictions, we haven't been 10 involved in a lot of MDLs, Judge Stack. So I can't 11 give you a comprehensive answer about that. 12 MR. SLACK: Okay. That's fair. 13 MR. CLARK: Can you tell me which 14 Boston product is being tried right now? 15 MR. BALEFSKI: Pinnacle. 16 MR. CLARK: You're aware there was a 17 verdict in Florida regarding Pinnacle cases of four 18 consolidated plaintiffs? Did you get that transcript 19 from the MDL? 20 MR. SPECTER: I'm sure we did, yes, and 21 those materials -- that's part of what I would like to 22 have Ms. Baldwin provide to Mr. Garrard is information 23 such as that, where there had been assistance from the 24 work that has been done by those who have been involved</p>	<p style="text-align: right;">Page 32</p> <p>1 briefing, helping with depositions. In a couple 2 instances, actually taking depositions, which I think 3 we submitted for Mr. Cameron early on in the Ethicon 4 litigation. He not only was involved in preparing for 5 depositions, but he actually was -- took one or two 6 depositions. 7 MR. RICE: Okay. 8 MR. BALEFSKI: It's not just document 9 review. That answer your question? 10 MR. RICE: Yeah, I just -- there was 11 some -- I just hadn't seen the distinction. I was 12 trying to figure out what it was. 13 MR. GARRARD: Thank you-all for coming. 14 Appreciate your candor. 15 (Concluded.) 16 17 18 19 20 21 22 23 24</p>

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1 STATE OF WEST VIRGINIA,

2 COUNTY OF WOOD, to wit;

3

4 I, Teresa Reedy, a Notary Public within and for the
County and State aforesaid, duly commissioned and qualified,
5 do hereby certify that the foregoing proceeding was duly taken
by me and before me at the time and place and for the purpose
6 specified in the caption hereof.

7 I further certify that the attached transcript meets
the requirements set forth within Article 27, Chapter 47 of
8 the West Virginia Code to the best of my ability.

9 I do further certify that the said proceeding was
correctly taken by me in shorthand notes, and that the same
10 were accurately written out in full and reduced to
typewriting.

11

I further certify that I am neither attorney or
12 counsel for, nor related to or employed by, any of the parties
to the action in which this deposition is taken, and further
13 that I am not a relative or employee of any attorney or
counsel employed by the parties or financially interested in
14 the action and that the attached transcript meets the
requirements set forth within article twenty-seven, chapter
15 forty-seven of the West Virginia Code.

16 My commission expires March 13, 2023. Given under
my hand this 12th day of August, 2018.

17

18 _____
Teresa L. Reedy, RPR

19

20

21

22

23

24

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